



## DEPARTMENT OF HEALTH & HUMAN SERVICES

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**ADMINISTRATION FOR CHILDREN AND FAMILIES**  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

### MEMORANDUM

**To:** Healthy Marriage and Responsible Fatherhood Federal Grantees

**From:** Office of Family Assistance, Administration for Children and Families

**Re:** Curricula Use and Compliance with 45 CFR Part 87

**Date:** January 23, 2008

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In our continued effort to encourage a partnership with clear communication between our agency and you, the grantees, we are providing guidance on issues that may impact your programs. This correspondence is to remind each grantee of one requirement found in the departmental rules at 45 CFR Part 87 entitled "Equal Treatment for Faith-Based Organizations." In particular, the provision at 45 CFR 87.2(c) prohibits Federal funding of "inherently religious activities" as follows:

"Organizations that receive direct financial assistance from the Department may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the Department. If an organization conducts such activities, the activities must be offered separately, in time or location, from any programs or services supported with direct Federal assistance, and participation in any such activities must be voluntary for the beneficiaries of the programs or services funded with such assistance."

This means that each grantee has a responsibility to ensure that curricula used in its Federally-funded program is *neutral* with respect to religion. Such materials should not promote, endorse, or favor religious beliefs over non-religious beliefs, nor should they disparage religious beliefs in any way. Further, the materials should not express a judgment with regard to religious and non-religious beliefs, or seek to change the religious and non-religious beliefs of participants.

Religious materials that are privately-funded may be used in sessions that are separate in time or location from the federally-funded sessions, as long as participation is voluntary.

Grantees should review their curricula to ensure that they comply with these principles. To help you understand how to comply with Part 87 we want to take this opportunity to list some examples of well-known program materials that have come to our attention, and the means by which these principles would apply to them. These examples are not intended to be an exhaustive list of all texts, materials, or curricular about which you may need to take measures to comply with 45 CFR Part 87.

Yet, this list highlights particular materials that have come to our attention and, in doing so, illustrates the kind of concerns about which you should be mindful when deciding whether any other curricula or programs may be used in your Federally-funded project:

1. **"Fatherhood is Sacred"** - Because inherently religious content is included throughout this curriculum it may not be purchased with Federal funds or used in the Federally-funded program.
2. **"Laugh Your Way To a Better Marriage"** – Similarly, this DVD may not be purchased with Federal funds or used in the Federally-funded marriage program.
3. **"Prepare To Last"** – The Workbook entitled "Prepare to Last: Creating A Great Marriage/ Workbook" similarly may not be purchased with Federal funds or used in the Federally-funded program.
4. **"The Five Love Languages"** – The textbooks "The Five Love Languages, How to Express Heartfelt Commitment To Your Mate" and "The Five Love Languages of Children" may not be purchased with Federal funds or used in the Federally-funded program.
5. **"Financial Peace University"** – This curriculum contains a book entitled "Financial Peace University: 91 Days to Beat Debt... and Build Wealth," that may not be purchased with Federal funds or used in the Federally-funded program because of the inherently religious content throughout the text.
6. **"24/7 Dad" (and affiliated curricula)** – Three curricula affiliated with 24/7 Dad contain facilitator-lead sessions that address spirituality. These include session 5 of the "24/7 Dad A.M" and "24/7 Dad P.M." curricula, as well as session 4 of the "Inside/Out Dad" curriculum. While the programs may be purchased for your Federally-funded projects these particular sessions that address spirituality may not be incorporated into them. Rather, facilitators and instructors must omit these particular sessions from presentations they conduct when presenting this curricula during their Federally-funded project.
7. **"Empowering Couples, Building On Your Strengths"** – This textbook contains ten chapters including "Spiritual Beliefs" at chapter 6. As a safeguard measure, to avoid the potential for concern, we are prohibiting grantees from incorporating this chapter in their Federally-funded projects. This measure may be accomplished by informing participants that they are not required to read this chapter because it is not part of the program in which they are enrolled. You may also wish to explain that your program is "not intended to express a judgment with regard to religious and non-religious beliefs, or change the religious or non-religious beliefs of participants." These instructions may be conveyed to participants either verbally, by written notice placed in or with their books, or both.

If you intend to incorporate these chapters or any portion of the books into a privately-funded program, separate in time or location from the Federally-funded program, then we remind you of the cost allocation requirement. Consistent with OMB Circular A-122, Attachment A, section A.4.a.(2), the cost of books may be charged to the Federal grant only in reasonable proportion to their use in the Federally-funded program. For example, if nine out of ten chapters are intended to be used in the Federally-funded program, while the remaining chapter is intended to be used in a separate privately-funded program, then Federal grant funds awarded for the purchase may be pay for 9/10 of the purchase cost.

If you do conduct any separate programs please see the "Safeguards" guidance that has been distributed to all grantees. It addresses additional measures to ensure that programs are separate and distinct. For example, the section sub-titled "Availability of other Programs" explains that any invitation to attend a separate program should occur after the Federally funded program has ended, rather than informing participants of the separate program while conducting the Federally-funded program. The invitation should make clear that the separate program is distinct and voluntary. We refer you to the safeguards guidance (attached) for these and related policies.

8. **"10 Great Dates to Energize Your Marriage"** – Both the book that is ordinarily distributed to participants "10 Great Dates to Energize your Marriage" and the accompanying DVD each includes a chapter entitled "Date Nine: Developing Spiritual Intimacy." Similar to the preceding example, as a safeguard to avoid the potential for concern, we are prohibiting grantees from incorporating this chapter in their Federally-funded projects. This may be accomplished by advertising your program as an abbreviated version and informing participants that they are not required to read the chapter or view that portion of the DVD because it is not part of the program in which they are enrolled. If the facilitator or instructor intends to show the accompanying DVD then this section should be skipped or otherwise omitted from the showing. As also indicated in the preceding example, you may wish to add that your program is "not intended to express a judgment with regard to religious and non-religious beliefs, or change the religious or non-religious beliefs of participants." These instructions may be conveyed to participants either verbally, by written notice placed in or with their books, or both.

Additionally, if you intend to incorporate this chapter of the book or DVD into a privately-funded program, separate in time or location from the Federally-funded program, then we remind you of the cost allocation and invitation measures outlined in the preceding example and explained more fully in the attached "Safeguards" guidance.

9. **"Facilitating Open Couple Communication, Understanding & Study (FOCCUS)"** – Grantees may use the "general" version of this curricula. As the program facilitator or instructor asks questions he or she must remain neutral and not promote, encourage or discourage participants to adopt religious beliefs or engage in religious practices. During the Federally funded program outside texts must not be recommended unless they are neutral to religion.

We want to emphasize that this is a list of examples. The omission of another program, or material that could be used in one of these programs, is not an indication that our office has found that it complies with Part 87. Rather, each grantee has a responsibility to assess their materials. Should you have any questions please contact your Federal Project Officer identified in your award package.



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### MEMORANDUM

**To:** Healthy Marriage and Responsible Fatherhood Federal Grantees

**From:** Office of Family Assistance, Administration for Children and Families

**Re:** Separation of Explicitly Religious Activities

**Date:** Presented at 2008 HMRF Grantee Conference

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#### 1. **Separate and Distinct Programs**

Any program with religious content must be a separate and distinct program from the federally funded program, and the distinction must be completely clear to the consumer. Some of the ways in which this may be accomplished include, but are not limited to, the following examples:

- Creating separate and distinct names for the programs;
- Creating separate and distinct looks for the promotional materials used to promote each program; and
- Promoting *only* the federally funded program in materials, websites, or commercials purchased with *any portion* of the federal funds.

Note: If an organization offers both a federally funded program and a religious program that both provide the same social service, or the clients served are children, it is very important that the separation between the programs be accentuated.

*45 CFR 87.1 (c). ("Organizations that receive direct financial assistance from the Department under any Department program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the Department."). 69 Fed. Reg. 42586, 42593 (2004).*

#### 2. **Separate Presentations**

Completely separate the presentation of any program with religious content from the presentation of the federally funded program by time or location *in such a way that it is clear that the two programs are separate and distinct*. If separating the two programs by time but presenting them in the same location, one program must *completely* end before the other program begins.

Some of the ways in which separation of presentations may be accomplished include, but are not limited to, the following examples:

- **The programs are held in completely different sites or on completely different days.**
- **The programs are held at the same site at completely different times.**  
Separation may be accomplished through such means as:
  - Have sufficient time between the two programs to vacate the room, turn down the lights, leave the stage, etc. in order to reasonably conclude the first program before beginning the second;
  - Completely dismiss the participants of the first program;

- The second program could follow in the same room or, where feasible, in a different room to further distinguish the difference between the programs.
- **The programs are held in different locations of the same site at the same time.**  
Separation may be accomplished through such means as:
  - Completely separate registration locations; and
  - Completely separate areas where programs are held such as by room, hallway, or floor, etc.

*45 CFR 87.1. (c). (“If an organization conducts [inherently religious] activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the Department . . .”). 69 Fed. Reg. 42586, 42593 (2004).*

### 3. **Religious Materials**

Eliminate all religious materials from the presentation of the federally funded program. This includes:

- Bibles or other books of worship;
- Registration materials that include religious inquiries or references;
- Follow up activities that include or lead to religious outreach; and
- Religious content in materials.

*45 CFR 87.1. (c). (“If an organization conducts [inherently religious] activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the Department . . .”). 69 Fed. Reg. 42586, 42593 (2004).*

### 4. **Cost Allocation**

Demonstrate that federal funds are only being used for the federally funded program. Some of the ways in which separation of funds may be accomplished include, but are not limited to, the following examples:

- Implement the use of time sheets that keep track of all staff hours charged to the federally funded grant, whether the staff work in other programs or not.
- Require any staff working in both federally funded programs and other programs to clearly indicate how many hours are spent on each program.
- If any staff work on both a federally funded program and a non-federally funded program at the same site on the same day, require the staff to clearly indicate not only how many hours are spent on the federal program but also which specific hours are spent on the federal program. The hours should reflect that time spent on any program with religious content have been completely separated from hours spent on the federally funded program.
- Show cost allocations for all items and activities that involve both programs such as staff time, equipment, or other expenses such as travel to event sites.  
This may be accomplished through such means as:

- Example: if transportation is used to go to a site where a federally funded program is conducted and a religious or non-religious program funded through other means is also conducted by the grantee at the same site, one half of the travel costs (gas, lodging, etc.) should be charged to the federal program. If *three* separate and distinct programs are conducted at a site by a federally funded grantee and one of them is the federally funded program, only one third of the travel costs should be charged to the federal program, etc.
- Example: if an electronic device is used 30% of the time for the federally funded program, this should be demonstrated through clear record keeping. Only 30% of the cost of the electronic device should be charged to the program.

**5. Advertisements**

Federally funded programs cannot limit advertising the grant program services exclusively to religious target populations.

*45 CFR 87.1 (e). (“An organization that participates in programs funded by direct financial assistance from the department shall not, in providing services, discriminate against a program beneficiary or prospective beneficiary on the basis of religion or religious belief.”)*

**6. Availability of other Programs**

After the federally funded program has ended a grantee may provide a brief and non-coercive invitation to attend a separate religious program.

The invitation should make it very clear that this is a separate program from, and not a continuation of, the federally funded program. It must also be clear that participants are not required to attend the separate religious program, and that participation in federally funded programs are not contingent on participation in other programs sponsored by the grantee organization.

Religious materials, such as a registration that includes religious follow-up may only be provided in the privately funded program rather than the federally funded program.

*45 CFR 87.1 (c). (“participation [in any privately funded inherently religious activities] must be voluntary for beneficiaries of the programs or services funded with [direct federal financial] assistance”). 69 Fed. Reg. 42586, 42593 (2004).*